

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated September 5, 2006 (hereinafter Office Action) have been considered. Claims 1-7, 9, 10 and 18-20 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1, 7, and 18 have been amended. Support for the amendments related to "indexing positions" can be found in the Specification at paragraph [0023] and Figs. 5 and 6, among other locations. Accordingly, no new matter has been added.

In the Office Action, the Examiner objected to the title as not being clearly indicative of the invention to which the claims are directed. The title has been amended as suggested by the Examiner. As such, the Applicant respectfully requests that the objection to the title be withdrawn.

Claims 1-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,757,827 to *Buchbinder et al.* (hereinafter "*Buchbinder*").

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain a rejection based on 35 U.S.C. §102.

The Applicant's amended independent claim 1 recites "the flexible shaft selectably movable between a plurality of discrete indexing positions of a first degree-of-freedom defined relative to the flexible shaft, the flexible shaft restrained in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions by the multiple-slot and pin arrangement." The Applicant's amended independent claim 18 recites "means for restraining a motion of the shaft in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions with a multiple-slot and pin

arrangement.” The Applicant respectfully submits that *Buchbinder* does not teach each and every element of independent claims 1 and 18, and therefore fails to anticipate these claims.

For example, in the rejection of independent claims 1 and 18, the Examiner identifies threading 66 and 67 of *Buchbinder* as a multiple slot and pin arrangement. The Applicant respectfully submits that threading 66 interfacing with threading 67 does not represent a multiple slot and pin arrangement, for at least the reason that no pin is used or disclosed by *Buchbinder*. Moreover, the threading arrangement disclosed by *Buchbinder* does not provide a plurality of discrete indexing positions, as a user could freely and continuously rotate the members through all possible positions and not encounter a plurality of indexing positions.

The Applicant’s amended independent claim 1 recites the flexible shaft selectably movable between a plurality of discrete indexing positions of a first degree-of-freedom defined relative to the flexible shaft, the flexible shaft restrained in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions by the multiple-slot and pin arrangement, which *Buchbinder* clearly does not teach. Moreover, the Applicant’s amended independent claim 18 recites means for restraining a motion of the shaft in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions with a multiple-slot and pin arrangement, which *Buchbinder* clearly does not teach. As such, *Buchbinder* fails to teach each and every element and limitation of independent claims 1 and 18, and therefore does not anticipate these claims.

Claims 1-7 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,755,812 to *Peterson et al.* (hereinafter “*Peterson*”).

In the rejection of independent claims 1 and 18, the Examiner identifies the stopping member 405 and the sliding member 406 of *Peterson* as representing a multiple slot and pin arrangement. (Office Action, Page 5). The Applicant respectfully disagrees for at least the reason that the members identified by the Examiner do not include a pin. For example, Fig.

4a illustrates that the stopping member 405 spans both sides of the outer guide 101. Also, the stopping member 405 is referred to as a singular stopping member. (Col. 8, line 60 – Col. 9, line 2). As such, stopping member 405 is not a pin but rather an annular member that wraps around the outer guide 101. Accordingly, the stopping member 405 and the sliding member 406 do not comprise a multiple slot and pin arrangement.

The Applicant's amended independent claim 1 recites the flexible shaft restrained in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions by the multiple-slot and pin arrangement, which *Peterson* clearly does not teach. Moreover, the Applicant's amended independent claim 18 recites means for restraining a motion of the shaft in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions with a multiple-slot and pin arrangement, which *Peterson* clearly does not teach. As such, *Peterson* fails to teach each and every element and limitation of independent claims 1 and 18, and therefore does not anticipate these claims.

Claims 1-7, 9, 10 and 18-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,179,809 to *Khairkhahan et al.* (hereinafter "*Khairkhahan*").

When discussing the *Khairkhahan* reference, the Examiner identifies pins 025 and 027 engaged with threads 0152 and states that together these constitute a multiple slot and pin arrangement. (Office Action Page, 6). *Khairkhahan* states that pins 025 and 027 and threads 0152 "create linear translation compensation of the drug delivery distal tip 0101 as the catheter tip 0118 is deflected." (Col. 9, Lines 47-60; see Fig. 6D). *Khairkhahan* does not teach that the arrangement of the pins 025 and 027 and threading 0152 include a plurality of discrete indexing positions. Rather, a user could freely and continuously rotate the members through all possible positions and not encounter a plurality of discrete indexing positions.

The Applicant's amended independent claim 1 recites the flexible shaft selectably movable between a plurality of discrete indexing positions of a first degree-of-freedom defined relative to the flexible shaft, the flexible shaft restrained in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions by the multiple-slot and pin arrangement, which *Khairkhahan* clearly does not teach. In addition, the Applicant's amended independent claim 18 recites means for restraining a motion of the shaft in the first degree-of-freedom at each indexing position of the plurality of discrete indexing positions with a multiple-slot and pin arrangement, which *Khairkhahan* clearly does not teach. As such, *Khairkhahan* fails to teach each and every element and limitation of independent claims 1 and 18, and therefore does not anticipate these claims.

Dependent claims 2-7, 9, 10, 19, and 20, which are dependent from independent claims 1 and 18, respectively, were also rejected as being anticipated by at least one of *Buchbinder*, *Peterson*, and *Khairkhahan*. While the Applicant does not acquiesce with the particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the remarks made in connection with independent claims 1 and 18. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited reference. Therefore, dependent claims 2-7, 9, 10, 19, and 20 are also not anticipated by either *Buchbinder*, *Peterson*, or *Khairkhahan*.

For at least these reasons, the Applicant respectfully submits that the rejection of claims 2-7, 9, 10, 19, and 20, as being anticipated by *Buchbinder*, *Peterson*, or *Khairkhahan*, is not sustainable.

It is to be understood that the Applicant does not acquiesce to the Examiner's characterization of the asserted art or the Applicant's claimed subject matter, nor of the Examiner's application of the asserted art to the Applicant's claimed subject matter. Moreover, the Applicant does not acquiesce to any explicit or implicit statements or conclusions by the Examiner concerning what would have been known to one of ordinary skill in the art, what is Applicant's prior art, officially noticed facts, and the like. The Applicant respectfully submits that a detailed discussion of each of the Examiner's

rejections beyond that provided above is not necessary, in view of the clear absence of teaching of various features recited in the Applicant's pending claims. The Applicant, however, reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

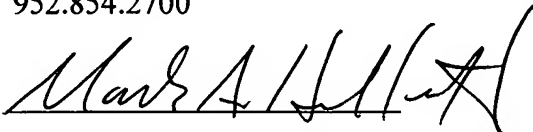
Authorization is given to charge Deposit Account No. 50-3581 (GUID.027US01) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact him to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: December 5, 2006

By:

A handwritten signature in black ink, appearing to read 'Mark A. Hollingsworth', written over a horizontal line.

Mark A. Hollingsworth
Reg. No. 38,491